Previous references
Ch 35-04-Sls 1-4

3915

4 Aug 1905.

Later references.
Ch 258-06, 1-3
Ch. 34-22 (1-4)
" 117-22 (1-4)
" 133-24 Sls 1-9
" 247-26 (1-4)
Law Dep 7-32.
Ch 141-37-1-4

Ch **File No.** 35-06

Serial Nos. 1-3

Sated

GENERAL AND REVENUE SECRETARIAT.

(Courts)

Part A: Manuscript
for December 1906

Serial Nos. 1-3

G.R.S. 57

Table of Contents.

From — the First Asstt to the Hon'ble the Resident-
in Mysore No 5036 dt 4-9-1906.

forwards letter No 2627 dated the 11th May 1905
with reference to previous Correspondence —
regarding the jurisdiction of Criminal
Courts in Native States, over Native Troops
and Soldiers of the Indian Army.

that it may be cited substituted for the
letter bearing the same number and date

2 & the Commissioner Mysore No. 1598/12-12-06.

Notifies that the Courts of the State shall not
exercise where officially authorised by Govt
to do so exercise jurisdiction over a
native officer or soldier of the Indian Army
who while not on leave commits any kind
of offence within the State, that the procedure
prescribed therein should be followed in
exceptional cases but that the Courts of
the State are not debarred from exercising
jurisdiction in the case of a native officer
or soldier of the Indian army with regard to
offences committed by them while on leave.

To the Registrar of the Court of Mysore No. 1599
" H.C. of Police at Mysore & Bgloor dt 12-12-06
" District Magistrates 1592-1598 dt 8-1-07

Forwarded Copies of the above

From A to the Hon'ble the Resident at Mysore
No HC 468 dt 12-12-1906

Forwarding a copy of the above Notification

G.R.S. 11] 1906. 4/1

GENERAL AND REVENUE SECRETARIAT.

III
(Courts)

NOTES.

CG File No. 75—06

FILE HEADING.

Jurisdiction of Criminal Courts in Native States over Native officers & Soldiers of the Indian Army

From

First Asste to the Resident in Mysore

No. 5036 Dated 4.9.06 Received 12.9.06

Diary No. 1662	Enclos. 1	Spare Copies. —	Serial No. 1

BRIEF ABSTRACT OF LETTER.

forwards ~~accompanying~~ letter No 2627 dated the 11th May 1905 with reference to previous correspondence regarding the jurisdiction of Criminal Courts in Native States over Native officers & Soldiers of the Indian Army and requests that it may be substituted for the letter No. 6 bearing the same number & date.

NOTES AND ORDERS.

1 Subd. There seems to be some difference in procedure contemplated by the new arrangement as compared with the ~~old~~ existing rules or practice in regard to jurisdiction of Courts in the State.

(Illegible)

(Illegible)

NOTES—First sheet.

GPB.—30,000—20-3-06.

G.R.S. 12]

General and Revenue Secretariat.

C5 File No. 75 of 1906

Serial No.	Under the existing arrangement.	Under the new arrangement.
Para. 3.	The Courts of Native States have no jurisdiction over a Native Officer or Soldier of the Indian Army who, while not on leave, commits any kind of offence within the Durbar State. (a).	Except where jurisdiction may be specially conceded, the Courts of Native States are not permitted to exercise jurisdiction over a Native Officer or Soldier &c. (a).
	The offender may be arrested by State authority in any case in which the law of the State permits of such arrest, but he should be handed over forthwith to the nearest Military authority (c).	Provided that the circumstances are not such as to allow of immediate arrest by the Military authorities, the offender may be arrested by State authority &c &c. Should the Resident consider it desirable, for any special reason, that the offender should be tried by the Durbar Courts, he may request the Military authorities either to deliver over the accused to the Durbar for trial, or to postpone proceedings

NOTE—Contn. sheet

GPB—50,000—23 10-05

Serial No.

pending a reference to the Governor-General in Council. The Military authorities, on receiving such a request, should either deliver over the Offender or forthwith refer the question as to the Court before which the proceedings are to be instituted for the decision of the Governor-General in Council. (C).

2 Para 4 of the Residency letter is new. In it provision is made that the Offender shall be tried at the Cantonment nearest to the place where the offence was committed in cases where the attendance of the Officials or Subjects of the Durbar may be necessary at the trial of a Native Officer or Soldier of the Indian Army, who may have committed an offence within the State.

3 Subd puts a draft Notification for approval

18.9.06. 7.10.06.

4 There is yet one class of cases with regard to which orders have to be issued. Viz:- When an officer or soldier while on leave within the State is accused of a ~~non-cognizable~~ offence committed by him on some previous occasion in which he is not arrested. ~~It~~ he may make

Note—Contn. sheet

GPB—50,000—23 10-05

Serial No.

a reference to the Residency about this class of cases also. It is likely that jurisdiction with regard to these cases also will be conceded. Two drafts submitted.

K Mathew 9.11.06.

Sec'y

I regret the delay in submitting this which was due to great pressure of work.

5 I do not think it is necessary to refer to the Residency in order to have the jurisdiction conferred by the Enactment. If the offence is one for which the offender may be arrested, all that the Station authorities have to do is to arrest the offender when he is found within the State or leave. This will include cases where the offender may not leave the State but may have evaded justice, & thus rendered himself liable to arrest. If the offence is one for which he cannot ordinarily be arrested, then, in the rare cases in which it is deemed necessary to prosecute the accused, the Durbar may move the Resident to concede Special jurisdiction to try the offender. This seems sufficient. Draft 5

Say, adviza self.

Note—Contn. sheet

GPB—50,000—23 10-05

G.R.S. 12]

General and Revenue Secretariat.

G5 File No. 75 of 1906

Serial No.

Resolution allowed accordingly.

6 The draft notification has been revised so as to remove the appearance of outside authority having interfered to limit the jurisdiction of our Courts.

12-11-05

K.S. Chandrasekhara Aiyar
12/11.

7 may be approved —

14/11/05

8 The drafts may be approved. With a few verbal alterations noted in pencil for the Revenue Consideration.

15/11

1 I do not see why a G.O. should not issue stating the Govt's object & ordering that the proposed notification shall issue. This will explain the reasons for the latter understanding your executive proceedings.

2 in extenso

25 Nov 05

L. Ananda Rao.

9 The Resident has objected to Commissioners functions being published without his orders authority.

25/11/05

U.S.C.

30/11/05

29.11.05

28/11

Note—Contn. sheet

GPB—50,000—23 10-05

Submitted to His Highness.

10 In accordance with letters 3513 dated 25th July 1904 and 2627 dated 11th May 1905, from the Residency, Notification No.418 dated 8th August 1905 was issued regarding the jurisdiction of State Courts over Native officers and soldiers of the Indian Army.

A 43

C

Papers under reference

11 With their present letter No.5036 dated 4th September 1906, the Residency have sent a revised copy of a letter to be substituted for letter No.2627 dated 11th May 1905.

12 A revised Notification in accordance with the terms of this letter is submitted herewith for approval.

P Raghava Rao

4/12/1906

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Revised Notification in re Jurisdiction of Criminal Courts in native States over native officers and soldiers of the Indian Army.

Order.

13 Approved
KRW
7/12/06

Dewan's order.
14 Please issue

G.R.S. 12]

General and Revenue Secretariat.

Ch File No. 75 of 1906.

Serial No.	
2	To the Compiler, Mysore Gazette No 1598 & 12.12.06. Notify that the Courts of the State shall not exercise where specially authorized & Govt to do so Criminal jurisdiction over a Native officer or Soldier & the Indian Army who shall not on leave commit any kind of offence within the State; that the procedure prescribed therein should be followed in Capital Cases and that the Courts of the State are not debarred from exercising jurisdiction in the case of a Native officer or Soldier of the Indian Army with regard to offences committed by them when on leave. No 1599 & 12.12.06. Forward copy of the above to the Registrar of the Chief Court. ~~No 1600 and 1892-99~~ No 1892-99 & 1101. Forward copy of the above to all the Dt Magistrates. ~~No 1899-1899~~ No 1600 - to all S. S. Police in Mysore No to the S. A. Resident in Mysore Pol No 468 & 12.12.06. Forwards copy of the above Notification

NOTE—Contn. sheet

GPB—50,000—23-10-05

J 662

Pol: Fr: 408 dt 7-9-06 sel

Letter No. 5036 Enclosure.

FROM

P. L. Moore Esq,. I. C. S.,

Offg: FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

III Courts 12.9.06 13/06

To

The Dewan of Mysore.

Dated Bangalore, 4th September 1906.

SIR,

S No 1

With reference to previous correspondence regarding the jurisdiction of Criminal Courts in Native States over native officers and soldiers of the Indian Army, I am directed to forward the accompanying letter No. 2627 dated the 11th May 1905, and to request that it may be substituted for the letter bearing the same number and date.

I have the honour to be,

Sir,

Your most obedient servant,

Offg: First Assistant Resident

J.K

To be substituted for the letter bearing the same no. & date

Letter No.2627 dated the 11th May 1905 from the First Assistant to the Hon'ble the Resident in Mysore to the Dewan of Mysore.

I am directed to reply to Mr. Venkatavaradaiengar's letter Pol.No.265 dated the 20th September 1904, regarding the jurisdiction of Criminal Courts in Native States over Native Officers and soldiers of the Indian Army.

2. The Durbar have been informed in my letter No.3513 dated the 25th July 1904 that the jurisdiction of such courts is limited to:-

(i) the case of a Native soldier who, while on leave within a Native State, commits an offence which renders him subject to arrest,

(ii) that of a Native soldier who, while on leave within a Native State is arrested for an offence committed by him in that State on some previous occasion; provided that the ~~effe~~ offence so committed is one of those entered in the Schedule to the Indian Extradition Act.

They now enquire what is the correct procedure in the following cases:- (a) When a Native soldier of the Indian Army commits within a Native State, while not on leave, an offence which does not subject him to arrest;

(b) When a Native soldier of the Indian Army commits within the State, while on leave, an offence which does not subject him to arrest;

(c) When a Native soldier of the Indian Army commits within the State, while not on leave an offence which does ~~not~~ subject him to arrest;

they also desire to know:-

(d) Whether an offence previously committed in a ~~Not~~ Native State ((ii) supra) means an offence committed by such soldier when not on leave or when on leave ; and

(e) What steps they can take when the offence referred to under (d) is not included in the Schedule to the Indian Extradition Act.

3. I am to state that as regards (a) the Courts of Native States are not, except where jurisdiction may be specially conceded, permitted to exercise jurisdiction over a Native officer or soldier of the Indian Army who, while not on leave, commits any kind of offence within their territories.

As regards (b), the Native Officer or soldier who, while on leave in a Native State, commits an offence of any kind against the law of such State is amenable to the jurisdiction of the State Courts.

As to case (c), provided that the circumstances are not such as to allow of immediate arrest by the Military authorities, the offender may be arrested by State authority in any case in which the law of the State permits of such arrest, but he should be handed over forthwith to the nearest Military Authority. Should the Resident consider it desirable, for any special reason, that the offender should be tried by the Durbar Courts, he may request the Military Authorities either to deliver over the accused to the Durbar for trial, or to postpone proceedings pending a reference to the Governor-General in Council. The Military Authorities, on receiving such a request, should either deliver over the offender or forthwith refer the question as to the court before which the proceedings are to be instituted for the decision of the Governor General in Council.

With reference to (d), the words "an offence committed by him in that State on some previous occasion" para 2((ii) supra) may be interpreted in their broadest sense, the meaning of the phrase not being restricted to offences committed while on leave. The jurisdiction of the Native State Courts will not, however, extend to the case of a Native soldier, who has been charged with an offence previously committed while on duty, and who has already been tried and either acquitted or punished by the British authorities for such offence.

As regards (e) I am to say that the Government of India are prepared to waive the restriction imposed by the

words

words "provided that the offence so committed is one of those entered in the schedule to the Indian Extradition Act" (paragraph 2 (ii) supra).

4. In order to promote the ends of justice and to meet the convenience of officials or subjects of the Durbar, whose attendance may be necessary at the trial of a native officer or soldier of the Indian Army, who may have committed an offence within the territories of a Native State, the Military authorities will arrange that in such cases, whenever the exigencies of Military service permit, the offender shall be tried at the cantonment nearest to the place where the offence was committed.

"Copy"

R. S. Tirumalai Aiyangar

Registrar.

Notification.

In ~~modification~~ of Notification No.J. 418/C.35-4 dated the 7th August 1905, His Highness the Maharaja of Mysore is pleased to issue the following orders for the guidance of all Criminal Courts and Police officers in the Mysore State:-

1) The Courts of the State shall not, except where specially authorized by Government to do so, exercise jurisdiction over a Native Officer or soldier of the Indian Army who, while not on leave, commits any kind of offence within the State. If for any special reason it is considered desirable in any such case that the offender should be tried by a State ~~Court~~ Court, the case must be reported to Government for orders. Further if in any such case the circumstances are not such as to allow of immediate arrest by the Military Authorities, the offender may be arrested by State authority if the law of Mysore permits of such arrest, but he should be handed over forthwith to the nearest Military Authority.

2) The Courts of the State are not debarred from exercising jurisdiction in the case of a Native Officer or soldier of the Indian Army who, while on leave within the State,

(a) commits within the State an offence of any kind against the law of the State, or,

(b) is arrested for an offence committed by him in the State on some previous occasion, whether he was or was not on leave on such occasion; provided that, when the offence with which such Officer or soldier is charged is one which was committed by him while he was previously on duty, and for which he has already been tried and either acquitted or punished by the British Authorities, the Courts of the State shall not again try him for the same offence.

Secretary to Government.

To,

The Compiler, Mysore Gazette, for publication in three issues of Part III of the Gazette, and for supplying 200 spare copies to this Office.

J 15-99 & 12.12.06
Cl 75-06-2

J 1600 & 12.12.06
Cl 75-06-2

J 1892 Bangr.
J 1893 Kolar.
J 1894 Mysore.
J 1895 Hassan.
J 1896 Kadur.
J (897) Shimoga
J 1898 Tumkur.
J 1899 Chitaldrug

28/1/07

Copy to the Registrar, Chief Court, to all District Magistrates, and to the Inspector General of Police, with the remark that in order to promote the ends of justice and to meet the convenience of officials or subjects of the Mysore State, whose attendance may be necessary at the trial of a Native Officer or soldier of the Indian Army who may have committed an offence in Mysore Territory, the Military Authorities will arrange that in such cases wherever the exigencies of Military Service permit, the Officer or soldier shall be tried at the Cantonment nearest to the place where the offence was committed.

Indian

British

G.R.S. 26]

File No. 1901
Serial No. 3

Diary No. of letter replied to J 662

Letter Pol No 4683 12.12.06
From K.S. Chandra Sekhara Aiyar
To Secy to the Govt of the
Mr 7 A.R.

General and Revenue Secretariat

( )

the 190

Date of issue 12.12.06

Signed by Mr. K.S. Chandrasekhara Aiyar

5203

I am directed to acknowledge the receipt of Mr. Mone's letter no. 5036 dated the 4th Sept 1906 forwarding a (an amended) letter (no 2627 dated the 11th May 1905) regarding the jurisdiction of the State Courts over native officers ~~of the officers~~ and soldiers of the Indian Army, & to request that the letter bearing the same number and date originally sent, and to state that the Tribunal have issued a revised notification in accordance with the

over.

SUBJECT.

to ~~forward the proceedings of~~
~~a criminal Court~~ in accordance
with the terms of the letter now
next. A ~~Copy~~ thereof is enclosed for information.
At the same time I am to
~~State~~ observe that one class of cases
has been left that is Reading
instructions as to the procedure
to be adopted in certain classes of
cases in which native officers or
soldiers of the Indian Army may
be considered did not refer to
one class of case viz where
an officer soldier while absent
within the State is accused of an
~~non-cognizable~~ offence committed
by him in some previous occasion
within the State. It will be observed
that para 2(ii) of your ~~last~~ office
letter No. 267 dated the 11th May
1905, as modified by ~~sub~~ sub para
5 of para 3, refers only to cases
in which a officer soldier
~~is~~ arrested, ~~is about to be arrested~~

Reference Pol No 265 of the 20th Sept 1904

List of enclosures

* but which ~~shall not be~~ is not arrested

Copied by

Examined by

GPB—10,000—20-4-06.